

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

KELLY D. GYERGYO,)	
)	
Plaintiff,)	
)	
vs.)	Civil Action No. 04-1667
)	
JO ANNE B. BARNHART,)	
COMMISSIONER OF SOCIAL SECURITY,)	
)	
Defendant.)	

O R D E R

AND NOW, this 6th day of March, 2006, upon consideration of the parties' cross-motions for summary judgment, the Court, upon review of the Commissioner of Social Security's final decision, denying plaintiff's claim for supplemental security income benefits under Subchapter XVI of the Social Security Act, 42 U.S.C. §1381, et seq., finds that the Commissioner's findings are supported by substantial evidence and, accordingly, affirms. See 42 U.S.C. §405(g); Jesurum v. Secretary of U.S. Department of Health & Human Services, 48 F.3d 114, 117 (3d Cir. 1995); Williams v. Sullivan, 970 F.2d 1178, 1182 (3d Cir. 1992), cert. denied sub nom., 507 U.S. 924 (1993); Brown v. Bowen, 845 F.2d 1211, 1213 (3d Cir. 1988). See also Berry v. Sullivan, 738 F. Supp. 942, 944 (W.D. Pa. 1990) (if supported by substantial evidence, the Commissioner's decision must be affirmed, as a federal court may neither reweigh the evidence,

nor reverse, merely because it would have decided the claim differently) (citing Cotter v. Harris, 642 F.2d 700, 705 (3d Cir. 1981)).¹

Therefore, IT IS HEREBY ORDERED that plaintiff's Motion for Summary Judgment (document No. 9) is DENIED and defendant's Motion for Summary Judgment (document No. 11) is GRANTED.

S/Alan N. Bloch
United States District Judge

cc/ecf: Barbara J. Artuso, Esquire
Asst. U.S. Atty. Lee Karl

¹With respect to claimant's contention that the ALJ improperly relied on the Medical-Vocational Guidelines (20 CFR Pt. 404, Subpt. P, App. 2) (Guidelines) in determining whether claimant was disabled, the Court disagrees. The ALJ's determination must be undisturbed by this Court if his decision is supported by "substantial evidence, even if this Court would have decided the factual inquiry differently." See Fagnoli v. Halter, 247 F.3d. 34, 38 (3d Cir. 2001). In the instant case, there is substantial evidence in the record supporting the ALJ's determination that the claimant does not suffer any non-exertional limitations. As such, the ALJ did not err when he relied on the Guidelines to determine whether claimant was disabled. See Hemphill v. Barnhart, 2005 U.S. Dist. LEXIS 15181, at *4 (E.D. Pa. July 27, 2005).